Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte ELISA E. ZAPPACOSTA

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Appeal No. 2002-0555
Application 09/361,514

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ON BRIEF

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Before COHEN, FRANKFORT, and STAAB, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 12, all of the claims pending in this application. In the examiner's answer (Paper No. 10, page 3), the examiner has withdrawn the rejections of claims 2 and 5 through 12, indicating that claims 5 through 12 now stand allowed and that claim 2 is now objected to, but contains allowable

subject matter and would be allowed if rewritten in independent form. In accordance with the foregoing, only claims 1, 3 and 4 remain for our consideration on appeal.

As noted on page 1 of the specification, appellant's invention relates to a computer expansion card retainer assembly bracket and, more specifically, to the assembly of a computer housing and computer expansion cards utilizing such a retainer bracket. The retaining bracket is shown as element (22) in Figures 1 and 2 of the application drawings and includes a planar portion (24) having a plurality of tabs or fingers (26) depending therefrom. As noted in the paragraphs bridging pages 5 and 6 of the specification,

> [o]nce flange 32 and mounting bracket 18 are properly positioned relative to mounting panel 10, retaining bracket 22 may be disposed over flange 32, and both bracket ends 28 with fastener openings 38 may be aligned with fastener openings 16. In aligning fastener openings 38 with fastener opening 16, tabs or fingers 26 will engage the surface of brackets 18 through which connector 40 extends.
>
> The forcing of bracket 22 to such a position whereby fastener openings 38 are aligned with the fastener openings 16, finger 26 will urge and retain bracket 18 into its proper position.

A copy of claims 1, 3 and 4 on appeal may be found in Appendix A of appellant's brief.

The sole prior art reference of record relied upon by the examiner in rejecting claims 1, 3 and 4 is:

Lee 5,757,618 May 26, 1998

Claims 1, 3 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee.

Rather than attempt to reiterate the examiner's commentary with regard to the above-noted rejection and the conflicting viewpoints advanced by appellant and the examiner regarding that rejection, we make reference to the examiner's answer (Paper No. 10, mailed July 3, 2001) for the reasoning in support of the rejection, and to appellant's brief (Paper No. 9, filed June 11, 2001) and reply briefs (Paper Nos. 11 and 13) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art Lee patent, and to the respective positions articulated by appellant and the examiner. As a consequence of

our review, we have made the determination that the examiner's rejection of claims 1, 3 and 4 under 35 U.S.C. § 103(a) will not be sustained. Our reasons follow.

The examiner's position (answer, pages 4-5) is that Lee discloses a computer assembly including all of the subject matter of claims 1, 3 and 4, except that it does not teach a circuit board assembly with a connector that extends through the elongated opening of a mounting panel as required in claim 1. To account for this difference, the examiner asserts that such a connector arrangement is an "expedient in the art" (answer, page 5) and that it would have been obvious to one of ordinary skill in the art to provide such an arrangement (presumably in the computer assembly of Lee) so as to permit connections between the electronic circuit board assembly and a peripheral device to be made without taking the computer assembly apart.

In addition to disputing the examiner's above-noted treatment of the connector arrangement limitation in claim 1 on appeal, appellant points out that claim 1 defines the computer assembly therein as including a retention bracket (22) having an elongated panel (24), a plurality of fastener openings (38) and a

plurality of depending force exerting members (26), wherein the depending force exerting members engage the mounting bracket of the at least one electronic circuit board set forth in the claim when the retention bracket is secured to the mounting panel by fasteners (50), and argues that the examiner's reading of the above-noted "depending force exerting members" on the alignment or fixing protrusions (30c) of cover member (30) of Lee is in error. More particularly, appellant urges that the pins (30c) of Lee are not force exerting members but only pass through the groove (26c) of the mounting bracket/support member (26) as locating pins and act solely to align and prevent the disengagement of the mounting bracket (26) from the mounting panel (16) after assembly.

Like appellant, our review of the Lee patent reveals that the protrusions or pins (30c) on the cover (30) therein extend through the grooves (26c) of the mounting brackets (26) and into holes (16c) of the mounting panel/receptacle (16) and act primarily as locating and alignment pins for proper positioning of the mounting brackets (26), particularly end portions (26a) thereof, relative to the mounting panel/receptacle (16). There is no indication and apparently no need in the arrangement seen in

Figures 5 and 7 of Lee for the pins (30c) to engage and apply a force to the end portions (26a) of the mounting brackets (26). In fact, Lee notes in column 4, lines 39-44, that although the number of protrusions or pins (30c) of Figure 5 are equal to the number of expansion boards (20) that can be mounted to the receptacle (16), there does not necessarily need to be a corresponding number, and the cover member (30) can be formed having a smaller number of pins/protrusions (30c).

It is rank speculation on the examiner's part to urge that the pins/protrusions (30c) of Lee are "force exerting members" which engage the mounting brackets (26) when the cover (30) is secured to the mounting panel (16) by fasteners (30a, 32). In our view, when the "plurality of depending force exerting members" of appellant's claim 1 is given its broadest reasonable interpretation consistent with the specification, and it is remembered that claim language cannot be read in a vacuum, but instead must be read in light of the specification as it would be interpreted by one of ordinary skill in the pertinent art (See In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983); In re Bond, 910 F.2d 831, 833, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) and In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023,

1027 (Fed. Cir. 1997)), such force exerting members must be interpreted to be members that are specifically designed and intended to apply a force against the mounting brackets of the electronic circuit board assemblies associated therewith in the computer assembly defined in claim 1 and as urging such mounting brackets and their associated electronic circuit board components into their proper position in the mounting panel of the computer assembly.

It is clear to us that the alignment and fixing protrusions/pins (30c) of Lee are not specifically designed and intended to apply a force against the mounting brackets of the electronic circuit board assemblies associated therewith. As appellant has argued on page 3 of the reply briefs, the disclosure in Lee of a pin/protrusion (30c) projecting through a groove (26c) does not require or imply any force being exerted on the mounting bracket portion (26a) by the pin/protrusion.

In light of the foregoing, it is our determination that the examiner has not made out a *prima facie* case of obviousness, and that the decision of the examiner rejecting claims 1, 3 and 4 under 35 U.S.C. § 103(a) must be reversed.

REVERSED

IRWIN CHARLES COHEN Administrative Patent Judge	)	
CHARLES E. FRANKFORT Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
LAWRENCE J. STAAB Administrative Patent Judge	)	

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